



REMARKS

This application has been carefully reviewed in light of the Office Action mailed January 18, 2001. To advance prosecution of this application, Applicant has responded to each issue raised by the Examiner. Applicant respectfully requests reconsideration, further examination, and favorable action in this case.

The Examiner rejects Claims 1-37 under 35 U.S.C. § 102(b) as being unpatentable over European Patent Application EP0770967A2 by Schmidt et al. ("*Schmidt*"). Applicant respectfully traverses this rejection for reasons discussed below.

Applicant respectfully notes that the disclosure contained in the *Schmidt* reference is substantially identical to the disclosure contained in U.S. Patent No. 5,953,707 issued to Huang et al. ("*Huang*"), except for differences in the claims and abstracts of the references. Applicant also notes that the Examiner acknowledged in the July 6, 2000 Office Action that *Huang* fails to teach or suggest the claimed invention. In particular, the Examiner acknowledged that *Huang* "does not disclose wherein the contract is an option contract nor exercising the option in the option contract." (*July 6, 2000 Office Action, Page 3, Lines 2-3*). *Schmidt* similarly fails to disclose the use of option contracts or the step of exercising the option in the option contract. Therefore, *Schmidt* fails to disclose, teach, or suggest the invention as recited in Independent Claims 1, 12, 19, and 28, or in claims depending from these claims.

As described in response to the prior Office Action in addressing the deficiencies of *Huang* as a reference against Applicant's claims, *Schmidt* discloses a system that allows a "decision maker in a supply chain to view the chain from their own perspective and understand the effect that their decisions will have on the supply chain as a whole." (*Page 3, lines 28-30*). In one aspect of operation, the system of *Schmidt* generates replenishment orders for a product. (*Page 31, lines 41-44*). These replenishment orders are generated under a VMR arrangement, which stands for "Vendor Managed Replenishment." (*Page 31, lines 41-44; Page 28, line 24*). *Schmidt* discloses that a VMR arrangement is a "logistics partnership agreement" where a vendor manages the inventory of a customer. (*Page 28, lines 54-58*). The vendor determines when the

customer's stock of a product needs to be replenished, rather than the vendor responding to orders from the customer. (*Page 28, lines 54-58*). This VMR arrangement is routinely embodied in a contract between the vendor and the customer. (*Page 28, lines 58-59*). To help the customer and vendor enter into a VMR contract through some means other than using the system of *Schmidt*, *Schmidt* discloses an analysis tool to help "study the feasibility of VMR programs; evaluate the terms of VMR contracts; and periodically review the overall performance of the VMR program." (*Page 29, lines 9-11*).

Schmidt fails to disclose, teach, or suggest a system that allows the formation and execution of any type of contract between a buyer and a seller. *Schmidt* discloses a system where a vendor generates replenishment orders for a product on behalf of a customer. Those orders are placed according to a previously-negotiated VMR contract between the customer and the vendor. The system of *Schmidt* allows the customers and vendors to review and evaluate previously-existing contract terms, but does not allow the customers and vendors to enter into electronic contracts with one another, much less the particular option contracts recited in Applicant's claims.

At a minimum, with respect to Claim 1, *Schmidt* does not disclose, teach, or suggest "communicating from the buyer computer to a seller computer an offer to enter into an option contract for the supply of a product" or "executing the option contract." With respect to Claim 12, *Schmidt* does not disclose, teach, or suggest "receiving ... terms of an option contract" or "communicating ... an acceptance of the terms of the option contract." With respect to Claim 19, *Schmidt* does not disclose, teach, or suggest "a negotiation module operable to communicate ... an offer to enter into an option contract" or "an execution module operable to execute an option contract including an option." With respect to Claim 28, *Schmidt* does not disclose, teach, or suggest "a negotiation module operable to receive ... an offer to enter into an option contract for the supply of a product" or "an execution module operable to execute the option contract and to store the terms of the option contract in a memory." Therefore, *Schmidt* fails to disclose, teach, or suggest all limitations of Claims 1, 12, 19, and 28 as required by 35 U.S.C. § 102(b). Furthermore, the claims of this Application recite numerous additional features further

distinguishing the present invention over the prior art.

For at least these reasons, Applicant respectfully requests withdrawal of the rejection and full allowance of Independent Claims 1, 12, 19, and 28, and Claims 2-11, 13-18, 20-27, and 29-37 depending therefrom.



CONCLUSION

Applicant has made an earnest attempt to place this case in condition for allowance. For the foregoing reasons, and for other reasons clearly apparent, Applicant respectfully requests reconsideration and full allowance of all pending claims.

If the Examiner believes a telephone conference would advance prosecution of this case, the Examiner is invited to call the undersigned attorney for Applicant, Christopher W. Kennerly, at the convenience of the Examiner. Mr. Kennerly may be reached at 214-953-6812.

Applicant does not believe that any fees are due. However, the Commissioner is hereby authorized to charge any fees or credit any overpayments to Deposit Account No. 02-0384 of Baker Botts L.L.P.

Respectfully submitted,

BAKER BOTTS L.L.P.
Attorneys for Applicant

A handwritten signature in black ink, appearing to read 'C. Kennerly'.

Christopher W. Kennerly
Reg. No. 40,675

Correspondence Address:
Christopher W. Kennerly, Esq.
Baker Botts L.L.P.
2001 Ross Avenue
Dallas, TX 75201-2980
(214) 953-6812

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